

REMARKS

Claims 1-30 and 32-40 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejection(s) in view of the amendments and remarks contained herein.

CLAIM OBJECTIONS

Claim 29 has been amended to overcome the objection thereto. Thus, the Applicant requests that the objection be withdrawn.

REJECTION UNDER 35 U.S.C. § 103

Claims 1, 12, 14, 29 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. (4,516,569) in view of Berman (6,017,366). Claims 2-11, and 13 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Evans et al. (4,516,569) in view of Berman (6,017,366) in view of Bramlet (5,954,970). These rejections are respectfully traversed.

Independent Claims 1 and 29 have been amended to recite a method for inserting a device, which is not taught in the cited art either alone or in combination. In particular, independent Claim 1 recites "adjusting a middle portion ~~has~~ having a first fixed angle to a second fixed angle such that a the second fixed angle is formed between the first end portion and the second end portion." Independent Claim 29 recites "forming a middle portion to have a fixed curvature and adjusting a fixed angle during the operative procedure between the first end portion and the second end portion." The Applicant

submits, as argued in previous responses, that none of the cited art teaches or suggests, either alone or in combination, that an angle can be adjusted. In particular, Evans et al. merely discloses that various devices can be formed to include an angle and not that an angle can be created during an operative procedure. As discussed before, Bramlet discloses a moveable hinge and Berman does not disclose any portion that would be interconnected between phalanges.

Further, independent Claims 1 and 29 have been amended to include subject matter similar to the allowed claims. Therefore, the Applicant submits that independent Claims 1 and 29, and each of the claims that depend directly or indirectly therefrom, are in condition for allowance.

ALLOWABLE SUBJECT MATTER


The Applicant thanks the Examiner for the indication of allowance of Claims 26-28 and 32-40.

CONCLUSION

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action, and as such, the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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